

FILE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 13 2003

OFFICE OF
MANAGING DIRECTOR

Peter D. Shields
Wiley, Rein & Fielding, LLP
1776 K Street, NW
Washington, D.C. 20006

Re: Request for waiver of Application Fees
Control No. 00000RROG-03-108

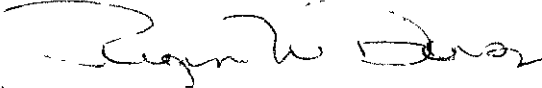
Dear Mr. Shields:

This letter responds to your request dated September 23, 2003 for waiver of Fiscal Year (FY) 2003 regulatory fees filed on behalf of Nucentrix Broadband Networks, Inc. (NBN) and its wholly owned subsidiary, Nucentrix Spectrum Resources, Inc. (NSR). In your petition, you state that on September 5, 2003, NBN and NSR filed for protection under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas. As evidence, you submitted copies of both bankruptcy petitions and Notices of Bankruptcy Case Filing from the Court.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship, and evidence of bankruptcy or receivership is sufficient to establish financial hardship. *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd, 12,759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). You have submitted evidence establishing that NBN and NSR commenced Chapter 11 proceedings on September 5, 2003. Therefore your request for waiver of the FY 2003 regulatory fees for the total amount of \$46,740.00 is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,


for Mark A. Reger
Chief Financial Officer

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Wiley Rein & Fielding LLP

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September 23, 2003

2003 SEP 23 2003
Federal Communications Commission
Bureau of Consumer Protection

Peter D. Shields
202.719.3249
pshields@wrf.com

VIA HAND DELIVERY

Managing Director
Federal Communications Commission
Wireless Bureau Applications
445 12th Street, S.W.
Room 1A625
Washington, D.C. 20554

Re: Request for Waiver of Annual Fees
Nucentrix Broadband Networks, Inc. (debtor-in-possession)
Nucentrix Spectrum Resources, Inc. (debtor-in-possession)

Dear Managing Director:

By this letter and pursuant to Section 1.1166(a) of the Commission's rules, Nucentrix Broadband Networks, Inc. (debtor-in-possession) ("NBN") and its wholly-owned subsidiary, Nucentrix Spectrum Resources, Inc. (debtor-in-possession) ("NSR") (collectively, "Nucentrix") request waivers of the annual regulatory fees associated with the various Commission authorizations held by NSRI.¹

A list of the authorizations covered by this request, which also details the fees for which Nucentrix is requesting a waiver, is attached as Exhibit 2. Nucentrix's financial hardship is demonstrated by the fact that, on September 5, 2003, NBNI, NSR and other subsidiaries and affiliates filed for protection under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Case No. 03-39123-HDH-11.

¹ 47 C.F.R. Sec. 1.1166(a). Nucentrix also requests a waiver pursuant to 47 C.F.R. Sec. 1.1166(c) of the requirement that waiver requests be accompanied by a fee payment pending disposition of the request. Section 1.1166(c) allows parties to seek a waiver without paying the fees pending disposition of the waiver request, so long as documentation of financial hardship is provided. To fulfill this requirement, Nucentrix attaches as Exhibit 1 copies of bankruptcy petitions for NBN and NSR.

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Wiley Rein & Fielding LLP

Managing Director
Federal Communications Commission
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The bankrupt status of NBN and NSR provides good cause for the waiver of these filing fees.² Additionally, a waiver of the annual regulatory fees will serve the public interest by enabling NBN and NSR to preserve assets that will accrue to the benefit of innocent creditors.

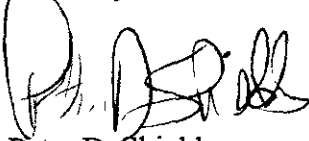
The FCC has found that:

[e]vidence of bankruptcy or receivership is sufficient to establish financial hardship. Moreover, where a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.³

Consistent with this statement in the *Implementation Order*, the FCC should grant Nucentrix's request for a waiver of its annual regulatory fees.

If you have any questions regarding these requests please contact the undersigned counsel.

Sincerely,



Peter D. Shields

Counsel for Nucentrix Broadband Networks, Inc. (debtor-in-possession) and its wholly-owned subsidiary, Nucentrix Spectrum Resources, Inc. (debtor-in-possession)

² Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 10 FCC Rcd 12759, ¶ 16 (1995) (hereinafter *Implementation Order*)

³ *Id*